

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA

IN RE CAPITAL BANK FINANCIAL CORP.
STOCKHOLDER LITIGATION

Lead Case No. 3:17-cv-00422-MOC-DSC

MASTER FILE

THIS DOCUMENT RELATES TO:
ALL ACTIONS

STIPULATION OF DISMISSAL AND [PROPOSED] ORDER

WHEREAS, on July 17, 2017, Plaintiff Stephen Bushansky filed a Class Action Complaint in Case No. 3:17-cv-00422-MOC-DSC (the “First Action”);

WHEREAS, on July 19, 2017, Plaintiff Paul Parshall filed a Class Action Complaint in Case No. 3:17-cv-00428-MOC-DSC (the “Second Action”);

WHEREAS, on July 25, 2017, Plaintiff Catherine McNamara filed a Class Action Complaint in Case No. 3:17-CV-00439-MOC-DSC (the “Third Action”);

WHEREAS, on August 11, 2017, the Court ordered the consolidation of the First Action, Second Action and Third Action into this Action (the “Consolidated Action”);

WHEREAS, the Consolidated Action asserts claims for violations of Sections 14(a) and 20(a) of the Securities Exchange Act of 1934 and Rule 14a-9 promulgated thereunder relating to disclosures made in a S-4 Registration Statement (“the Registration Statement”) filed with the United States Securities and Exchange Commission (the “SEC”) on or around June 29, 2017, in connection with the proposed acquisition of Capital Bank Financial Corp. (“Capital Bank”) by First Horizon National Corporation (“First Horizon”) (the “Transaction”);

WHEREAS, on August 23, 2017, Capital Bank publicly filed an amendment to the Joint Proxy Statement/Prospectus filed on July 28, 2017, in a Form 8-K with the SEC that contained

additional information regarding the Transaction that was responsive to the disclosure claims asserted in the Consolidated Action (the “Supplemental Disclosures”);

WHEREAS, based on their review and analysis of the Supplemental Disclosures, Plaintiffs believe that sufficient material information addressing their claims was provided in the Supplemental Disclosures to warrant dismissal of the Complaints as moot;

WHEREAS, as a result of the Supplemental Disclosures, Plaintiffs assert that they created a substantial benefit for Capital Bank stockholders and that Plaintiffs’ counsel have a claim for attorneys’ fees and expenses in connection with the prosecution of the Consolidated Action;

WHEREAS, Plaintiffs have informed Defendants that they intend to submit an application for an award of attorneys’ fees and reimbursement of expenses if their claim for fees and expenses cannot be resolved through negotiations between Plaintiffs’ Counsel and Defendants (the “Fee and Expense Application”);

WHEREAS, Defendants expressly deny that any claim asserted by Plaintiffs is or ever was meritorious, and continue to deny that they committed or aided and abetted any violation of law, or engaged in any of the wrongful acts alleged in the Complaints, further deny that the Supplemental Disclosures contained any additional facts that were required to be disclosed, and expressly maintain that they have diligently complied with all of their legal obligations;

WHEREAS, each Defendant reserves the right to oppose any Fee and Expense Application;

WHEREAS, for the avoidance of doubt, no compensation in any form has passed directly or indirectly to Plaintiffs or Plaintiffs, counsel, and no promise, understanding, or agreement to give any such compensation has been made; nor have the parties had any discussions concerning the amount of any attorneys’ fees and expenses;

WHEREAS, the parties intend to meet and confer concerning Plaintiffs' potential Fee and Expense Application, and, if the parties are unable to reach an agreement, the parties respectfully request that this Court retain jurisdiction over the prospective Fee and Expense Application; and

WHEREAS, no class has been certified in the Consolidated Action.

NOW, THEREFORE, IT IS STIPULATED AND AGREED by the undersigned parties, through their attorneys and subject to the Court's approval, that:

1. This Consolidated Action is dismissed pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, and all claims asserted therein are dismissed with prejudice as to the named Plaintiffs, individually, and without prejudice as to any actual or potential claims of any other putative class member.
2. As the dismissal is with prejudice to Plaintiffs only, and without prejudice as to all other members of the putative class, notice of this dismissal is not required.
3. This Court retains continuing jurisdiction over the parties in the Consolidated Action solely for purposes of further proceedings related to the adjudication of Plaintiffs' anticipated Fee and Expense Application, if such an application becomes necessary.
4. This Order is entered without prejudice to any position, claim, or defense any party may assert with respect to the anticipated Fee and Expense Application or any matter related thereto, which includes Defendants' right to challenge the amount of the anticipated Fee and Expense Application.
5. To the extent that the parties are unable to reach an agreement concerning Plaintiffs' claim for attorneys' fees and expenses, Plaintiff may file a motion with the Court

to request a schedule and hearing to present to the Court Plaintiffs' Fee and Expense Application.

6. If the parties reach an agreement concerning Plaintiffs' Fee and Expense Application, they will promptly notify the Court, and request that the Court close the action for all purposes.

Dated: August 24, 2017

Respectfully submitted,

/s/Janet Ward Black

Janet Ward Black
NC Bar No. 12869
Nancy Meyers
NC Bar No. 23339
WARD BLACK LAW
208 West Wendover Avenue
Greensboro, North Carolina 27401
(336) 510-2104 Direct Dial
(336) 510-2181 Dedicated Facsimile
jwblack@wardblacklaw.com

*Local Counsel for Plaintiffs
and Proposed Interim Liaison Counsel*

/s/Ronald R. Davis

Ronald R. Davis
NC State Bar No. 20408
Brent F. Powell
N.C. State Bar No. 41938
Womble Carlyle Sandridge & Rice, LLP
One West Fourth Street
Winston-Salem, North Carolina 27101
Telephone: 336-721-3600
Email: rdavis@wcsr.com
Email: brpowell@wcsr.com

*Attorney for Capital Bank Financial Corp.,
R. Eugene Taylor, Martha M. Bachman,
Richard M. DeMartini, Peter N. Foss,
William A. Hodges, Scott B. Kauffman,
Oscar A. Keller III, Marc D. Oken,
Robert L. Reid, and William G. Ward Sr.*

Stephen R. DiPrima, Esq.*
WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
New York, NY 10019
srdiprima@wlrk.com

*Counsel for defendants Capital Bank
Financial Corp., R. Eugene Taylor, Martha
M. Bachman, Richard M. DeMartini,
Peter N. Foss, William A. Hodges,
Scott B. Kauffman, Oscar A. Keller III,
Marc D. Oken, Robert L. Reid, and*

William G. Ward Sr.

**Pro Hac Vice Forthcoming*

Richard A. Acocelli
Michael A. Rogovin
Kelly C. Keenan
WEISSLAW LLP
1500 Broadway, 16th Floor
New York, New York 10036
Tel: (212) 682-3025
Fax: (212) 682-3010

*Counsel for Plaintiff Stephen Bushansky
and Proposed Interim Lead Counsel*

John L. Hardiman
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Tel: (212) 558-4000

*Counsel for defendants First
Horizon National Corporation and
Firestone Sub, Inc.*

Brian D. Long
Gina M. Serra
RIGRODSKY & LONG, P.A.
2 Righter Parkway, Suite 120
Wilmington, DE 19803
(302) 295-5310

*Counsel for Plaintiff Paul Parshall and
Proposed Interim Lead Counsel*

Richard A. Maniskas
RM LAW, P.C.
1055 Westlakes Drive, Suite 300
Berwyn, PA 19312
(484) 324-6800

Counsel for Plaintiff Paul Parshall

Donald J. Enright
Elizabeth K. Tripodi
LEVI & KORSINSKY, LLP
1101 30th Street, N.W., Suite 115
Washington, DC 20007
Tel: (202) 524-4290
Fax: (202) 337-1567
Email: denright@zlk.com
etripodi@zlk.com

*Counsel for Plaintiff Catherine McNamara
and Proposed Interim Lead Counsel*

SO ORDERED:

Dated: _____

Max O. Cogburn, Jr.
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2017, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail address denoted on the attached Electronic Mail Notice List.

/s/Janet Ward Black
Janet Ward Black
NC State Bar 12869
Attorney for Plaintiffs
Ward Black Law
208 W. Wendover Ave.
Greensboro, NC 27401
336-333-2244
jwblack@wardblacklaw.com